

Qardh Agreement on Spaylater Limit Loans According to The View of MUI Fatwa About Sharia Electronic Money

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Article	Abstract
How to cite: Hikmatul Qomaria, 'Qardh Agreement on Spaylater Limit Loans According to The View of MUI Fatwa About Sharia Electronic Money' (2023) Vol. 4 No. 2 Rechtenstudent Journal Sharia Faculty of KH Achmad Siddiq Jember State Islamic University. DOI: 10.35719/rch.v4i2.271 Article History: Submitted: 29/06/2023 Reviewed: 15/07/2023 Revised: 01/08/2023 Accepted: 15/08/2023 ISSN: 2723-0406 (printed) E-ISSN: 2775-5304 (online)	SPayLater is a shopping loan provided by Shopee. SPayLater loans can be used by users to buy their needs in installments without a credit card. This SPayLater Limit Loan uses the Qardh contract. A Qardh contract is a loan given by one person to another with the condition that the borrower must return the value of what was borrowed. The issue of this legal research is: what is the mechanism for the SPayLater limit loan at Shopee and what is the Qardh contract for the SPayLater limit loan according to the view of DSN-MUI Fatwa No: 116/DSN-MUI /IX/2017 concerning Sharia Electronic Money. The research method used is an empirical research method with a qualitative approach. Data collection techniques that researchers use are structured interviews, participatory observation and document study. This research obtained results in the form of. 1). The SPayLater feature does not appear in every Shopee user account, only selected Shopee user accounts can register SPayLater. The SPayLater limit loan cannot be disbursed and can only be used for transactions on the Shopee application. 2). The provision of SPayLater limit loans provided by Shopee to its users has fulfilled the principles of the Qardh contract, because the pillars and conditions in the Qardh contract have been fulfilled. Furthermore, according to the view of the DSN-MUI Fatwa regarding Islamic Electronic Money, the Qardh contract provisions are not related. Because the conditions aqidnya not met. Keywords: <i>Qardh, Spaylater, Electronic Money.</i> Abstrak <i>SPayLater</i> adalah pinjaman pembelanjaan yang disediakan oleh <i>Shopee</i>. Pinjaman <i>SPayLater</i> dapat digunakan oleh pengguna untuk membeli barang kebutuhannya dengan cicilan tanpa kartu kredit. Pinjaman Limit <i>SPayLater</i> ini menggunakan akad <i>Qardh</i>. Akad <i>Qardh</i> adalah pinjaman yang diberikan seseorang kepada orang lain dengan ketentuan bahwa peminjam harus mengembalikan senilai apa yang dipinjam. Isu penelitian hukum ini adalah: 1) Bagaimana mekanisme pinjaman limit <i>SPayLater</i> pada <i>Shopee</i>?; dan 2) Bagaimana akad <i>Qardh</i> pada pinjaman limit <i>SPayLater</i> menurut pandangan Fatwa DSN-MUI No:116/DSN-MUI /IX/2017 tentang Uang Elektronik Syariah?. Metode penelitian yang digunakan yaitu metode penelitian empiris dengan pendekatan kualitatif. Teknik pengumpulan data yang peneliti gunakan adalah wawancara terstruktur, observasi partisipatif dan studi dokumen. Penelitian ini memperoleh hasil berupa. 1). Fitur <i>SPayLater</i> tidak muncul pada setiap akun pengguna <i>Shopee</i>, hanya akun pengguna <i>Shopee</i> terpilih yang dapat melakukan registrasi <i>SPayLater</i>. Pinjaman limit <i>SPayLater</i> tidak bisa di cairkan dan hanya dapat digunakan untuk bertransaksi pada aplikasi <i>Shopee</i>. 2). Pemberian pinjaman limit <i>SPayLater</i> yang disediakan oleh pihak <i>Shopee</i> kepada penggunaannya telah memenuhi prinsip akad <i>Qardh</i>, karena rukun dan syarat dalam akad <i>Qardh</i> telah terpenuhi. Selanjutnya, menurut pandangan Fatwa DSN-MUI tentang Uang Elektronik Syariah, bahwa ketentuan akad <i>Qardh</i>nya tidak berkaitan. Karena syarat <i>aqidnya</i> belum terpenuhi.

Introduction

The impact of the convenience of technology and the internet today has created several new innovations, including the trade sector, such as E-Commerce (Electronic Commerce).¹ E-Commerce is a form of trading through the internet network. While buying and selling online is called Marketplace. Marketplace is an online buying and selling place, where the seller will receive payment after the buyer receives the items ordered.² The marketplace in Indonesia that many people like is Shopee. Shopee is an online trading place whose head office is in Singapore.³ In 2015 Shopee was launched for the first time in Singapore, then expanded to Thailand, Malaysia, Indonesia, Taiwan, the Philippines and Vietnam.

In March 2019, SPayLater was officially launched. SPayLater is an online loan feature in the form of a limit provided by Shopee to selected users. SPayLater is the newest Shopee application service that provides loans to users of up to Rp. 50,000,000. The organizer of the loan at SPayLater is PT. Commercial Finance in the form of bills (buy now pay later) which are paid the following month, or in installments, either 3 months, 6 months or 12 months without using a credit card.⁴ The use of SPayLater is in great demand by the public, until 2020 it was recorded that it had reached 1.27 million users.⁵ The SPayLater limit loan is a form of implementing the Qardh contract. A Qardh contract is a loan contract provided by a muqriddh (lender) to a muqtaridh (borrower) with the condition that the muqtaridh (borrower) must return the money or goods received according to the agreement.⁶

The Qardh contract provisions in the DSN MUI Fatwa No: 19/DSN-MUI/IV/2001 regarding al-Qardh and the KHES (Compilation of Sharia Economic Law) state that the Qardh customer is required to pay off the initial amount given when an agreement occurs.⁷ Where as in the practice of SPayLater there is a fairly low interest advantage. On the other hand, in a nominal loan transaction, the money that is loaned is in the form of cash and can be used according to the needs of the borrower without any specific restrictions. Whereas the nominal SPayLater loan limit provided by Shopee cannot be disbursed or is not in the form of cash and there is a limit that this limit cannot be used for transactions outside the Shopee application.

Based on this background description, this study aims to determine the practice of SPayLater limit loans using Qardh contracts that occur between Shopee and Shopee users. So that it can be seen whether the terms and conditions contained in the Qardh contract have been fulfilled by the SPayLater limit loan practice, so that this loan practice can be categorized as a loan that is in accordance with sharia principles.

¹Lisma Yana Siregar, and Muhammad Irwan Padli Nasution. "Perkembangan Teknologi Informasi Terhadap Peningkatan Bisnis Online." *HIRARKI: Jurnal Ilmiah Manajemen Dan Bisnis* 2.1 (2020): 71-75.

² Oni Sahroni, *Fikih Muamalah Kontemporer: Membahas Ekonomi Kekinian* (Jakarta: Republik Penerbit, 2019), 16.

³ Ramayani Yusuf, Heny Hendrayati, and Lili Adi Wibowo. "Pengaruh Konten Pemasaran Shopee Terhadap Keputusan Pembelian Pelanggan." *Jurnal Manajemen Pendidikan Dan Ilmu Sosial* 1.2 (2020): 506-515.

⁴ Tim Shopee, "SPayLater", Shopee, 30 November 2022, accessed via: <https://help.Shopee.co.id/s/article/Shopeepaylater>

⁵ Renggani Nur Wulan Octanita Sanoesi, and Hendra Setiawan. "Pengaruh Presepsi Kemudahan, Manfaat, Intensitas Penggunaan, Gaya Hidup terhadap Impulse Buying Pada Pengguna Shopee Paylater." *SIMBA: Seminar Inovasi Manajemen, Bisnis, dan Akuntansi*. Vol. 4. 2022, 3.

⁶ Muhamad Bisri Mustofa, and Mifta Khatul Khoir. "Qardhul Hasan Dalam Perspektif Hukum Islam Pada Baitul Maal Wa Tamwil (BMT) Dan Implementasinya." *At Taajir: Jurnal Ekonomi, Bisnis dan Keuangan Syariah* 1.1 (2020): 44-58.

⁷ National Sharia Council, DSN MUI Fatwa NO: 116/DSN-MUI/IX/2017 Concerning Sharia Electronic Money.

Research Methods

This type of research is empirical juridical or called field research, which examines the applicable legal provisions and what actually happens in society.⁸ This study analyzes the problems carried out by combining written law with data found in the field, namely the practice of SPayLater limit loans using Qardh contracts according to the DSN MUI fatwa No.116/DSN-MUI/IX/2017. Data collection techniques used in this study were interviews, observations and document studies. This study used structured interview techniques with Shopee customer service and Shopee users.

This research also uses participatory observation, that is, the researcher is involved with the daily activities of the person being observed or used as a source of research data.⁹ The researcher directly observed the activities of SPayLater limit loan practices by observing Shopee in providing SPayLater limit loans and researchers carried out the practice of SPayLater limit loans directly as SPayLater users. Document studies are documentation obtained through the researcher's application as a Shopee user. Furthermore, this study used descriptive-qualitative data analysis, namely presenting the data and information and then analyzing it using several conclusions as the findings of the research results. This descriptive analysis technique the researcher interprets and describes the data that has been obtained from interviews, observations and document studies on the practice of SPayLater limit loans using Qardh contracts and analyzed according to the views of the DSN-MUI fatwa regarding sharia electronic money.

Result and Discussion

SPayLater Loan Limitation Mechanism in the Shopee Marketplace

Accounts payable is not a foreign thing to everyone's ears. Accounts payable is an agreement between one party and the other party with the agreed object and will be returned within a certain period of time in accordance with what has been agreed.¹⁰ Related to this, one form of debt that is widely used by the public today in e-commerce activities, especially shopee, is in the form of a Spaylater. SPayLater is a payment payment method provided by PT. Commerce Finance on the Shopee app.

SPayLater financing is a product of collaboration between PT Commerce Finance (the Company) and PT Shopee International Indonesia (Shopee).¹¹ SPayLater is a financial loan service for Users which is also a payment method on the Shopee e-commerce platform that allows Shopee Users to transact to buy goods and pay for them at a later date on the due date.¹² SPayLater Products Installment 2X, 3X, 6X, and 12X. SPayLater bears an interest rate of

⁸ Rangga Suganda, "Metode Pendekatan Yuridis Dalam Memahami Sistem Penyelesaian Sengketa Ekonomi Syariah." *Jurnal Ilmiah Ekonomi Islam* 8.3 (2022): 2859-2866.

⁹ Veny Ari Sejati "Penelitian Observasi Partisipatif Bentuk Komunikasi Interkultural Pelajar Internasional Embassy English Brighton, United Kingdom." *JURNAL SOSIAL Jurnal Penelitian Ilmu-Ilmu Sosial* 20.1 (2019): 22.

¹⁰ Siti Muhlisah, "Sistem Utang Piutang Pupuk Dibayar Gabah di Jember Perspektif Fiqh Muamalah dan Hukum Positif", *Rechtenstudent Jurnal* Vol. 1 No. 3 (2020): 286

¹¹ Ni Kadek Pingkan Putri Natalia, Anak Agung Sagung Laksmi Dewi, and Ni Made Puspasutari Ujjanti, "Akibat Hukum dari Keterlambatan Pembayaran Spaylater bagi Pengguna E-Commerce Shopee." *Jurnal Preferensi Hukum* 3.1 (2022): 196-200.

¹² Asep Sungkawa, and Widda Windiyani, "Shoopeday Later Ditinjau dari Hukum Ekonomi Syariah." *Al-Hanan: Jurnal Ilmiah Hukum Ekonomi Syariah* 1.1 (2022): 12-22.

2.95% per month which is settled in 1 month, 3 months, 6 months and 12 months. SPayLater charges a handling fee of 1% per transaction. If there is a delay in payment, the buyer will be charged a fine of 5%.¹³

The SPayLater limit loan on the Shopee Marketplace will occur if there are selected users who activate their SPayLater feature, by following the steps listed on the Shopee application. The SPayLater limit loan on the Shopee Marketplace can be explained as follows:¹⁴

1. SPayLater can only be activated by certain users or selected users. If Shopee users are selected users, Shopee can provide special promos such as SPayLater Lite with installments (0%) aimed at several Shopee users, including new Shopee users. The promo given is in the form of cashbon (limit) of Rp. 50,000. Users can enjoy this limit, if they have paid off the SPayLater Lite bill within the checkout limit (5x). And you can enjoy bigger limits by upgrading from SPayLater Lite to SPayLater. Shopee itself does not have specific criteria for providing the SPayLater feature, because at this time the SPayLater feature is still in the process of being developed so that it can be used by all Shopee users. In determining acceptance of the SPayLater feature, only Shopee knows based on a review of the user's account.
2. Terms and conditions for activating SPayLater for selected users, namely that they must have Indonesian citizen status and be at least 17 years old and have an ID card. If the user does not have an ID card, then SPayLater cannot be activated.
3. How to register for SPayLater is enough by clicking on the "Me" menu > SPayLater > Activate Now > Enter the Verification Code (OTP) sent via SMS > click "Continue". Then Upload a Photo "Identity Card" (KTP), and "Self-portrait" and "Done". After that enter Additional Information > click "Confirm" and Do "Face Verification". If successful, the user will get a notification that SPayLater is in progress. The initial activation process takes a maximum of 2x24 hours. If the user does not receive a notification within 2x24 hours, the user can re-register and not be charged anything. If user activation is successfully approved by Shopee, the user will get a SPayLater limit loan automatically. The SPayLater limit loan cannot be cashed out and can only be used for transactions on the Shopee application.
4. How to checkout using SPayLater payment by selecting the payment method > SPayLater, users can choose a 3 month, 6 month, and 12 month installment program or Buy Now Pay Letter (buy now pay later) > then click "Confirm". After that, click "Make Order" and enter your Shopeepay PIN. If the SPayLater limit is less than the total payment amount, then the user can pay part of it with SPayLater and the rest with another payment method when making a checkout order.
5. In paying SPayLater bills, the user will get a bill notification 10 days before the due date. The latest for SPayLater bill payments is the 5th, 11th, or 25th of each month, according to the due date period. The payment method for SPayLater loan bills can use Shopeepay, Virtual Account (bank transfer) or Indomaret by clicking "Me" > SPayLater > Total Bill for this Month > clicking "Next Bill" > Pay Paid. If the user finds a delay in paying SPayLater bills, the user will get:

¹³ Redaksi, "SPayLater", PT Commarce Finance, 04 January 2022, accessed via: <https://commerce-finance.com/product>.

¹⁴ Tim Shopee, "Cara Aktifasi SPayLater", Shopee, 30 November 2022, accessed via: <https://help.Shopee.co.id/s/article/Bagaimana-cara-mengaktifkan-Shopeepaylater>

- a. A fine of 5% per month is imposed on the total bill that is due.
- b. The user's Sophee account can be Deactivated
- c. Telephone Billing
- d. Restrictions on the use of Shopee Vouchers and Access Functions in the Shopee application.
- e. Credit rating on OJK's SLIK (Financial Information Service System) which can prevent users from obtaining financing from other banks or companies.
- f. Field Billing.

Qardh Agreement on the SPayLater Loan Limit in Accordance with DSN MUI Fatwa No.116/DSN-MUI/IX/2017 Concerning Sharia Electronic Money.

Agreements in Islamic law are called "*akad*", which can be interpreted as a bond or relationship between consent and qabul that is framed based on sharia values.¹⁵ *Akad Qardh* or Qardh agreement is a loan provided by a person or institution to a customer (*muqtaridh*) who needs it.¹⁶ In this regard, Shopee offers users to activate SPayLater as a loan limit that users can use when transacting at Shopee. Qardh is a loan that is given by someone to another person with the condition that the borrower must return what was borrowed.¹⁷ In this case, it can be referred to as Qardh because someone cuts off a portion of his wealth and lends it to people in need.¹⁸

In practice, Shopee provides offers to users to activate SPayLater limit loans. This limit can be used by users to make transactions on the Shopee application. The SPayLater limit loan obtained by the user is adjusted to the data entered by the user when applying for the SPayLater loan. The provision of SPayLater limit loans provided by Shopee to users uses a Qardh contract. A qardh contract is a transaction between two parties in which the first party hands over his property to the second party to be used as needed, and the second party must return it according to what he received from the first party with the terms agreed by both parties.¹⁹

In a qardh contract, it is required to have an *aqid* (person who makes the transaction), *ma'qud alaih* (object of debt) and *shighat* contract (handover).²⁰ The provisions in the Qardh contract must also fulfill several pillars of the contract including *Aqid* (person who transacts accounts payable), *ma'qud alaih* (money or goods owed) and *shighat* contract (*Ijab* and *qabul* between the two parties).²¹ Parties who act as *aqid* (people who make transactions) in the practice of SPayLater limit loans are Shopee as *muqridh* (people who give loans) and Shopee/SPayLater users as *muqtaridh* (people who receive loans). Shopee parties and Shopee/SPayLater users are institutions or people who are legally competent so that transactions are justified by laws and regulations.

¹⁵ Auliya Safira Putri, Dyah Ochtorina Susanti, Rahmadi Indra Tektona, "Karakteristik Akad Mukhabarah bil Mudharabah Pada Kemitraan Pertanian Tebu, Jurnal Magister Hukum Udayana, Vol. 12, No. 2, 2023, 351.

¹⁶ National Sharia Council, DSN MUI Fatwa NO: 19/DSN-MUI/IV/2001 Concerning Al-Qardh.

¹⁷ Febri Annisa Sukma, et al. "Konsep Dan Implementasi Akad Qardhul Hasan Pada Perbankan Syariah Dan Manfaatnya." *Amwaluna: Jurnal Ekonomi dan Keuangan Syariah* 3.2 (2019): 148-162.

¹⁸ Ismail Nawawi, *Fikih Muamalah Klasik dan Kontemporer* (Bogor: Penerbit Ghalia Indonesia, 2012), 178

¹⁹ Ahmad Faridz Anwar, Nelly Riyanti, and Zainul Alim. "Pinjaman Online Dalam Perspektif Fikih Muamalah Dan Analisis Terhadap Fatwa DSN-MUI No. 117/DSN-MUI/IX/2018." *Tazkiya* 21.2 (2020).

²⁰ Titi Martini, Resi Atna Sari Siregar, and Nurmayani Pasaribu. "Analisis Hukum Ekonomi Syariah tentang Implementasi Akad Qardh." *Hikmah* 19.1 (2022): 64-76.

²¹ Ismail Nawai, *Fikih Muamalah*, 179

The payable object in the SPayLater loan is the SPayLater limit. This limit can be owned by the user so that it can be used to make transactions at Shopee even though this limit cannot be used for transactions outside the Shopee application. In addition, the SPayLater limit provided by Shopee can be used by users after Shopee has verified user data. Furthermore, the occurrence of consent and qabul in SPayLater loans is when the user agrees to all the terms and conditions provided by Shopee. Then the user registers personal data and Shopee verifies the user's data. When viewed from the pillars and conditions contained in the Qardh contract described above, it can be concluded that the provision of SPayLater limit loans made by Shopee to its users has fulfilled the principles of the Qardh contract, because all the terms and pillars in the Qardh contract have been fulfilled. So that in this loan transaction it can be categorized as a loan agreement that is in accordance with sharia principles.

Furthermore, after the researchers conducted an analysis of the SPayLater limit loan, using the views of the DSN-MUI Fatwa No: 116/DSN-MUI/IX/2017 concerning Islamic electronic money, the researcher found that the SPayLater limit loan provided by Shopee to its users was not yet included in the electronic money category. sharia. Because the terms and conditions contained in the SPayLater loan limit have not fulfilled the terms and conditions contained in Islamic electronic money.

This provision is in the form of nominal electronic money that is lent to holders of electronic money that must be kept at an Islamic bank.²² This is done because most of the transactions contained in conventional banks contain elements of usury.²³ In addition, this provision is intended to strengthen Islamic financial institutions in Indonesia. Meanwhile, the SPayLater loan limit provided by Shopee is managed by PT Commarce Finance in collaboration with PT Shopee Internasional Indonesia.

Apart from that, there is no relation to the Qardh contract contained in the DSN-MUI Fatwa No: 116 concerning sharia electronic money, because in this case the muqridh must be the customer/SPayLater user, and the muqtaridh must be Shopee. In addition, as we already know that in loan transactions, the nominal money that is lent is in cash and can be used according to the needs of the person who borrows without any specific restrictions. Whereas the nominal SPayLater loan limit provided by Shopee cannot be disbursed or is not in the form of cash and there is a limit that this limit cannot be used for transactions outside the Shopee application.

Conclusion

Based on the results of the research above, it can be seen that: First, the loan mechanism at SpayLater starts with registration, the requirements are Indonesian citizens, at least 17 years old, have a KTP, and are advised to have a job because there are bills every month. The SPayLater limit loan cannot be disbursed and can only be used for transactions on the Shopee application. When checking out (checking orders), users can choose 3x, 6x and 12x installment programs or Buy Now Pay Later (Buy now pay later). If the user's SPayLater limit is less than the total payment amount, then the user can make payments using other methods. Users will

²² Budi Abdullah, "Edukasi Pembayaran Zakat yang Dilakukan Melalui Uang Elektronik dalam Perspektif Akad Muamalah." *Jurnal Review Pendidikan dan Pengajaran (JRPP)* 6.2 (2023): 288-299.

²³ Moh Ali Wafa, "Hukum Perbankan Dalam Sistem Operasional Bank Konvensional dan Bank Syariah." *Kordinat: Jurnal Komunikasi Antar Perguruan Tinggi Agama Islam* 16.2 (2017): 257-270.

get billing notifications 10 days before the due date. The latest for making SPayLater bill payments is on the 5th, 11th, or 25th of each month, according to the selected due date period.

Second, the provision of the SPayLater limit loan provided by Shopee to its users has fulfilled the Qardh contract principles, because all the terms and pillars in the Qardh contract have been fulfilled. So that in the transaction the provision of this SPayLater limit loan can be categorized as a loan agreement that is in accordance with sharia principles. However, the SPayLater loan limit on the Shopee marketplace, in the view of the DSN-MUI Fatwa regarding Islamic electronic money, has not been fulfilled, because the Qardh contract contained in the DSN-MUI Fatwa regarding Islamic Electronic Money is not related to each other.

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